

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 679

An Act to direct the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services to submit state plan amendments to the Centers for Medicare and Medicaid Services to seek to modify the program rules for certain 1915(c) Home and Community Based Services Medicaid Waivers.

[S 488]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS) shall seek federal authority through the necessary state plan amendments under Titles XIX and XXI of the Social Security Act to modify the program rules for the following 1915(c) Home and Community Based Services (HCBS) Medicaid Waivers: Community Living Waiver, Family and Individual Support Waiver, and Commonwealth Coordinated Care Plus Waiver. DMAS and DBHDS shall submit state plan amendments to the Centers for Medicare and Medicaid Services for the following:*

1. Modify the 40-hour-per-week work limit to allow legally responsible individuals with more than one waiver-receiving child to receive reimbursement for 40 hours of work per week per child receiving a waiver;

2. Eliminate the requirement that, in order for a legally responsible individual to receive reimbursement for personal care services, no one else be available to provide services to the member; and

3. When a member under the age of 18 receives personal care through consumer direction, as defined in 12VAC30-122-20, modify the program rules to allow a legally responsible individual or stepparent to be the employer of record.

2. *That the Department of Medical Assistance Services (DMAS) shall analyze the possibility of allowing for respite services under the Community Living Waiver, Family and Individual Support Waiver, and Commonwealth Coordinated Care Plus Waiver when the legally responsible individual is an unpaid caregiver all or part of the time and when there are multiple adult caregivers providing any portion of unpaid care for the waiver-receiving child. DMAS shall develop recommendations on allowing for respite services under such circumstances and shall estimate the cost of providing such respite services. DMAS shall submit its recommendations, cost estimate, and methodology used for obtaining the cost estimate to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Education and Health no later than November 1, 2024.*